

UNITED STATES TAX COURT
WASHINGTON, DC 20217

ALBERT SOFIAN,)
)
 Petitioner,)
)
 v.) Docket No. 17960-12 L.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent)

ORDER

This case will be tried at the Court's Miami session beginning November 18, 2013. In our order of August 22, 2013, denying respondent's motion for summary judgment, we stated:

The principal issue underlying the dispute about [petitioner] Mr. Sofian's liability appears to be his claim that his gain on sales of securities must be offset by his "basis" (usually, purchase price) in those securities. As a general matter, this is correct; but it is Mr. Sofian's burden to prove his basis, by presenting (for example) documentation showing the price he paid for his securities. He may have such information in his own possession, or he may be able to obtain it from his brokers. (And if he needs to subpoena his brokers or their records, he should consult Rule 147.) In any event, he should be prepared to offer his evidence at the trial of this case.

For the reasons stated above, it is * * *

ORDERED that, in compliance with our standing pretrial order, the parties shall exchange with each other, no later than November 4, 2013, all the documentary evidence that they expect to offer at the trial of this case. They should not expect to be allowed to submit at

trial evidence that they failed to exchange by November 4, 2013.
[Underlining in original.]

On November 1, 2014, respondent filed a pretrial memorandum that states (a) that respondent still contends that Mr. Sofian had a prior opportunity to challenge his underlying income tax liability for 2001, and (b) that Mr. Sofian “has failed to provide any documentation to support his position that he is entitled to cost basis for the securities sold during the year”.

It is

ORDERED that Mr. Sofian shall immediately provide to respondent all the documentation he has not yet provided on which he relies to substantiate his basis in the securities. It is further

ORDERED that respondent, in preparing to show “verification” under section 6330(c)(1) in view of Mr. Sofian’s position that he did not receive the notice of deficiency, shall note: (a) that the CDP settlement officer stated that Appeals “[m]ay not be able to verify SNOD as it was issued in 2004” (Ex. V to respondent’s motion for summary judgment; underlining added); (b) that the discussion of “Verification” in the attachment to the notice of determination (Ex. A) describes verification only very summarily and makes no mention of the issuance or receipt of the statutory notice; and (c) that in the absence of the taxpayer’s admission of receipt, the Settlement Officer “must review (or attempt to review) the underlying pre-assessment documents that show that the notice was issued and was sent to the taxpayer’s last known address. This means in addition to transcripts, you should review or attempt to review the following documents, if possible: A. a copy of the SNOD and B. the certified mailing list for the SNOD to verify whether the SNOD was properly mailed to the taxpayer’s last known address.” IRM pt. 8.22.2.2.4.7.1(4) (emphasis added).

(Signed) David Gustafson
Judge

Dated: Washington, D.C.
November 8, 2013